

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

STATE OF OKLAHOMA, *et al.*,

Plaintiffs,

v.

Case No: CIV-21-1069-G

JOSEPH R. BIDEN, JR., in his official capacity as
President of the United States, *et al.*,

Defendants.

PLAINTIFFS' NOTICE OF NEW AUTHORITY

Plaintiffs The State of Oklahoma; J. Kevin Stitt, Governor of Oklahoma; and John M. O'Connor, Attorney General of Oklahoma, hereby notify the Court of the recent decision of the U.S. District Court for the Eastern District of Kentucky in *Kentucky v. Biden*, No. 3:21-cv-00055-GFVT, 2021 WL 5587446 (E.D. Ky. Nov. 30, 2021) ("*Kentucky*") (attached as Exhibit 1).

In *Kentucky*, plaintiffs sued President Biden and other federal defendants for issuing and seeking to enforce the contractor mandate. The Eastern District of Kentucky granted plaintiffs' motion for a preliminary injunction. It enjoined the federal defendants from enforcing the contractor mandate in Kentucky, Ohio, and Tennessee. *Id.* at *14. In so doing, the *Kentucky* Court relied on the Federal Property and Administrative Services Act ("Procurement Act");¹ the non-delegation principle undergirding our separation of powers;

¹ On the Procurement Act claim, the *Kentucky* Court wrote: "If a vaccination mandate has a close enough nexus to economy and efficiency in federal procurement, then the statute

and the Tenth Amendment implications for the police power of the States to regulate public health. These are also some of the grounds invoked by Plaintiffs in their own Complaint and Motion for Temporary Restraining Order and Preliminary Injunction.

Accordingly, this Court should consider this new authority in its adjudication of Plaintiff's pending motion.

Respectfully submitted,

s/ Mithun Mansinghani

Mithun Mansinghani

Solicitor General

OFFICE OF THE ATTORNEY GENERAL

OF THE STATE OF OKLAHOMA

313 NE 21st Street

Oklahoma City, OK 73105

(405) 521-3921

Mithun.mansinghani@oag.ok.gov

Gene C. Schaerr*

H. Christopher Bartolomucci*

Riddhi Dasgupta*

Brian J. Field*

SCHAERR | JAFFE LLP

1717 K Street NW, Suite 900

Washington, DC 20006

(202) 787-1060

gschaerr@schaerr-jaffe.com

cbartolomucci@schaerr-jaffe.com

could be used to enact virtually any measure at the president's whim under the guise of economy and efficiency." 2021 WL 5587446, at *7.

sdasgupta@schaerr-jaffe.com
bfield@schaerr-jaffe.com
* *Pro hac vice* motions pending

*Counsel for Plaintiffs The State of
Oklahoma; J. Kevin Stitt, Governor of
Oklahoma; and John M. O'Connor,
Attorney General of Oklahoma*

Dated: December 2, 2021